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2008 BUSINESS REFORM COMMITTEES
MEETING OF THE BUSINESS COURTS STUDY GROUP

JULY 22, 2008
11:00 A.M.

Secretary of State's Office
700 North Street
Jackson, Mississippi

AGENDA

1. Welcome – Cheryn Baker
2. Roll Call of Teleconference Attendees – Cheryn Baker
3. Introductory Remarks – Hon. Ed Pittman
4. Approval of Minutes from July 9, 2008, Meeting – Hon. Ed Pittman
5. Update on Additional Requested Research – Cheryn Baker
6. Reports from Subcommittee Chairs and Discussion of Outstanding Issues
 - a. Procedure / Technology – Acting Chair
 - i. Status Report
 - ii. Recommendations, if any
 - b. Blake Wilson – Funding / Fees
 - i. Status Report
 - ii. Recommendations, if any
 - c. James Holland – Jurisdiction / Venue
 - d. Joey Diaz – Judicial Selection

7. Other Business
8. Format of Upcoming Meetings
9. Adjourn 1:00 P.M.

Upcoming Meeting Dates

August 6 August 20 September 3

September 8 – No Meeting; Recommendations Due



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**Additional Research Requested by Business Court Sub Groups
Status as of July 23, 2008**

Technology and Electronic Filing

- We have included in the materials information on the courts e-filing project (from the AOC and the Supreme Court Website) and the fund that has been established by the legislature for this. According to the AOC, this fund could NOT be used for other purposes such as to pay for technology costs for a business court program.

Filing Fees:

- *Clarification of whether additional filing fees are charged for assignment to business court:* We have confirmed that the only jurisdictions in our survey that charge an additional fee for the business court docket are Arizona (\$500), North Carolina (\$200) and Connecticut (\$250).
- *Filing fees for Civil Court Cases in Mississippi:* The base filing fee in Circuit Court is \$85 (see Miss. Code Ann. § 25-7-13), though additional state and local fees are added to the base, generally raising the filing fee to around \$110. The base filing fee for most actions in Chancery Court is \$75 (see Miss. Code Ann. § 25-7-9), with additional fees bringing the total to around \$105.

Civil Cases in Mississippi Courts:

- **ALLOCATION OF TIME.** *Is there a way to determine how much time judges spend on business-type cases vs. other types of cases?* Unfortunately, the judges do not report this information to the AOC and the AOC does not collect this information. The only way to determine this would be to conduct an independent survey, which would be based on voluntary responses.
- **BREAKDOWN OF CIVIL CASES BY STATUTE.** *Is there a way to determine the numbers of pending cases that deal with a particular statute, such as the business corporation act or the LLC act, etc.?* Currently the only way to collect this information would be to manually look at the filings of each case. This information is not collected by AOC. The state is developing a computerized case management docket and tracking system, that would be able to collect this information, but that is years down the road before it is actually implemented.

- NOTE: While this information is unavailable for pending cases, we have included in the materials the Court decisions from 2000 to 2007 that involved business entity and other business type related statutes. This includes the district from which the case was appealed from. This doesn't provide an accurate picture of disposed cases that dealt with these acts, because it doesn't include settled cases, but it might be of some value to the group.
- **BREAKDOWN BY TYPE OF PARTY (BUSINESS OR INDIVIDUAL)** *Is there a way to determine the pending cases where the parties are both (or all) businesses, versus pending cases that have individuals as a party?* Not currently, see response to above question.
- **BREAKDOWN OF CIVIL CASES IN TOP CIRCUITS AND CHANCERY DISTRICTS.**
 - *Can we get a breakdown of the nature of civil cases filed in MS for the top 3 to 5 largest Circuits?* Yes, we have requested this from the AOC, but have been told that it will be a few weeks before they can get this information to us.
 - *Can we get a breakdown of this for the top Chancery Districts?* Yes, this information is included in the materials.
- **BREAKDOWN OF DISPOSED CASES BY DISTRICTS.** *Can we get a breakdown of civil cases disposed of by Circuit and Chancery Court District?* Yes, this is on pages 15-16 of the Supreme Court 2007 Annual Report in your materials.

Additions to Survey

- **Additional States:** *Request to add Arizona and Connecticut to the Survey.* This is in process. Revised survey is almost completed.
- **Appeals Process:** *Information about the appeals process for cases decided in the business courts.* This has been added and will be distributed. At this time it appears that all business court decisions are appealed from the district that the docket has been created in to the same appellate court for the other cases from that district. A possible exception is the Fulton County Georgia court which seems to not have an appeals process. We are confirming this.
- **Venue:** All the business courts are part of an existing court system and generally have the same venue restrictions as the existing court system (or districts within that system). Other than the possibility of Maine which appears to have a state-wide docket, there are no business courts with a state-wide venue jurisdiction or that have created regional business courts that divide up the state in equal parts and hear cases on a regional venue (such as north, central and south, etc.). This means that the business court docket is only available to parties that meet the venue requirements of the district the docket is located in. It is not available to all

- parties in the state. The exception is DE's court of chancery which has districts that cover the entire state.
- ***How are cases reallocated when an existing judge is assigned to business docket? Is a new judge hired to fill the vacancy caused by this reassignment?***
We researched all the business courts and none of them hire a new judge to fill a vacancy created by the assignment of an existing judge to a business docket. The general cases are reallocated to the other judges in the district. The overall general docket in the district becomes smaller because of the transfer of cases to the business docket, so the remaining judges are able to manage the caseload without the reassigned judge. In some jurisdictions the business court judges still hear other types of cases in addition to business cases.
- ***How judges are selected. Are judges selected or assigned to the business court docket/division from an existing pool of sitting judges? Are appellate judges being assigned business court cases?***
 - It appears that except for Delaware Court of Chancery which has appointed judges (by which they all automatically hear the business cases), judges are selected from the pool of existing (elected or appointed) judges from within the district of the court or within that court's system.
 - After the judge is first elected or appointed to a judge position for a particular seat, then he/she is appointed or assigned to the business court, usually by the chief justice of that state's supreme court or by another higher level judge.
 - It does not appear that judges are being selected from outside an existing court system to be a business court judge. For example, it does not appear that a judge from an appellate court is being re-assigned to be a judge for a business court within a trial court. Or that a chancery court judge is being re-assigned to be a judge for a business docket within a circuit court district.
 - Fulton Co. NV, NY, Orlando, SC and AZ elect their judges and then assign them to their business courts.
 - Maine, NC, Philadelphia and CT appoint their judges and then they are assigned to business court.
 - **It does not appear that any state changed its method of selection of judges from election to appointment (or vice versa) specifically for the business court.** Rather they rely on the existing selection system and then pick their judges (by various assignment or appointment methods) from that pool of sitting judges.